

Jurisdiction and Venue

4. Subject Matter Jurisdiction is proper pursuant to 28 U.S.C. § 1331 and the Americans with Disabilities Act (the “ADA”), 42 U.S.C. §§ 12101 *et. seq.*

5. Personal Jurisdiction is proper because PSP conducts business in this jurisdiction, has its headquarters or “nerve center” within this jurisdiction, and maintains sufficient contacts within this jurisdiction to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945), and its progeny.

6. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1) and (2) because personal jurisdiction is proper in this district and because a substantial part of the events giving rise to the claim occurred within this district.

The Facts

7. Due to a congenital condition, Mrs. Horejs has suffered from a hearing impairment since birth.

8. The congenital condition prevents Mrs. Horejs from hearing normally, and as a result she has had to wear hearing aids since she was approximately 3.5 years old.

9. Without the use of her hearing aids, Mrs. Horejs experiences a significant hearing impairment, which substantially limits numerous major life

activities, which includes, but is not limited to, her ability to hear, communicate, learn, and follow instructions.

10. Her hearing impairment has also impacted her ability to speak, as it resulted in her going to speech therapy when she was a child.

11. Mrs. Horejs has fought every day of her life to overcome the stigma associated with her hearing impairment.

12. In 2016, Mrs. Horejs enrolled in the PSP Academy (“the Academy”) in Hershey, Pennsylvania.

13. On August 17, 2016, she underwent a medical examination in connection with her enrollment in the Academy.

14. Part of the aforementioned examination involved a hearing test.

15. Mrs. Horejs was told that she needed to perform the test without her hearing aids.

16. She did so, but was not immediately informed of the results thereof.

17. In October of 2016, while still enrolled in the Academy, Mrs. Horejs tore the ACL in her right knee.

18. Since the knee injury would have prevented her from participating in and completing the physical drills at the Academy, Mrs. Horejs was asked to resign her position so that her seat could be given to another candidate.

19. Mrs. Horejs was told that if she resigned, she would be reinstated into the Academy once her knee injury was rehabilitated.

20. Mrs. Horejs honored the Academy's request and resigned.

21. Mrs. Horejs submitted her request to be reinstated into the Academy by the appointed May 1, 2017 deadline.

22. On or about July 27, 2017, she received an email indicating that she had two weeks to submit to another hearing test from her own doctor, Dr. David Ambrose.

23. She submitted the results of the requested test (which was conducted with and without hearing aids) on August 9, 2017—within the afore-stated two-week time frame.

24. The test from Dr. Ambrose revealed that Mrs. Horejs passed the test with her hearing aids.

25. No one from PSP responded to this test result.

26. On January 4, 2018, Mrs. Horejs received a letter indicating that she was disqualified from the Academy due to her hearing impairment.

27. Mrs. Horejs wanted to appeal but was told that there was no formal appeal process.

28. Mrs. Horejs spoke to an HR representative and asked him if she could take the hearing test with her hearing aids, since the use thereof substantially increased her hearing ability, but she was told that she could not.

29. Instead, Mrs. Horejs was informed that she could submit another hearing test from her doctor.

30. She was again tested with and without her hearing aids, and passed the test with her hearing aids.

31. She submitted the results on or about January 12, 2018.

32. On March 9, 2018, mere months after requesting the aforementioned reasonable accommodation of wearing assistive devices during her hearing test, Mrs. Horejs received an email indicating that the Academy was not changing its decision and that the hearing threshold had to be met without use of any hearing aids or other assistive devices.

33. Mrs. Horejs filed a timely charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”).

34. After investigation, the EEOC entered a “reasonable cause” determination on May 1, 2019. **See Exhibit A.**

35. Conciliation was unsuccessful and a Right to Sue Letter was ultimately issued on November 12, 2020. **See Exhibit B.**

COUNT I

Violations of the Americans with Disabilities Act Disability Discrimination, Failure to Accommodate, and Retaliation

36. Paragraphs 1 through 35, above, are fully incorporated by reference.

37. Mrs. Horejs has and continues to be a qualifying individual who suffers from a qualifying disability under the ADA and the American with Disabilities Act Amendments Act (“ADAAA”).

38. The aforementioned hearing disability substantially impairs major life activities, as alleged above.

39. Mrs. Horejs was initially enrolled in the Academy but was ultimately denied admittance because of her qualifying hearing disability.

40. Instead of engaging in the interactive process with Mrs. Horejs, PSP flatly denied her admittance into the Academy due to her qualifying disability.

41. Mrs. Horejs requested a reasonable accommodation, but was denied the same, even though she had demonstrated that she could satisfy the entrance requirements with said accommodation (*i.e.*, wearing hearing aids).

42. It is believed and therefore averred that PSP’s request to Mrs. Horejs asking her to resign her seat in the Academy while rehabilitating her ACL injury was merely a pretext for illegal and intentional disability discrimination resulting from her hearing impairment.

43. It is further believed and therefore averred that PSP's alleged requirement that Academy candidates achieve a minimum score on a hearing test *without using hearing aids or other assistive devices* is arbitrary, capricious, and has no legitimate basis in law or fact.

44. It is further believed and therefore averred that the aforementioned requirement is discriminatory not only on its face but in its application and therefore results in disparate treatment of, and disparate impact on, Mr. Horejs and other similarly situated individuals who suffer from hearing impairment.

45. Plaintiff seeks relief herein for the denial of admittance into the Academy because such actions by Defendant were motivated by Plaintiffs: (i) known or perceived health problems; (ii) record of health conditions; and/or (iii) due to Plaintiff's request for reasonable accommodations and where therefore retaliatory.

46. It is further believed and therefore averred that the unlawful actions of PSP in failing to readmit Mrs. Horejs into the Academy because of her qualifying hearing disability constitutes an intentional violation of the ADA and ADAAA.

47. As a direct result of PSP's willful and unlawful actions in violation of the ADA, Mrs. Horejs has suffered emotional pain and suffering, humiliation, embarrassment, and distress, in addition to a loss of earnings and benefits, including back pay and front pay.

48. It is believed and therefore averred that PSP's actions were taken with malice and/or reckless indifference to Mrs. Horejs' federally protected civil rights under the ADA, and she is therefore entitled to punitive damages.

WHEREFORE, the Plaintiff, Casey Horejs a/k/a Casey Green, respectfully requests that this Honorable Court enter judgment in her favor and against the Defendants, the Pennsylvania State Police, in an amount that includes:

- a) Lost wages and lost fringe benefits;
- b) Compensatory damages;
- c) Punitive damages;
- d) Ordering her reinstatement into the Academy, or in the alternative, award front pay;
- e) Awarding the costs of this action, together with reasonable attorney's fees and costs;
- f) Award all other relief as the Court deems equitable, just, and appropriate.

RESPECTFULLY SUBMITTED,

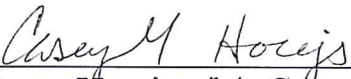


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VERIFICATION

The language of the foregoing document is that of counsel and not necessarily my own; however, I have read the foregoing document and to the extent it is based upon information I have given to counsel, it is true and correct to the best of my knowledge, information and belief; to the extent that the content of the foregoing document is that of counsel, I have relied upon counsel in making this verification.

We understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A Section 4904, relating to unsworn falsification to authorities.



Casey Horejs a/k/a Casey Green

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Horejs, Casey a/k/a Casey Green

(b) County of Residence of First Listed Plaintiff Berks
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Eric M. Prock, Esq., Fanelli, Evans & Patel
1 Mahantongo St., Pottsville, PA 17901. (570) 622-2455

DEFENDANTS

Pennsylvania State Police

County of Residence of First Listed Defendant Dauphin
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability			<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander			<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability			<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine			<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability			<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle			<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice			<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 850 Securities/Commodities/Exchange
				<input type="checkbox"/> 890 Other Statutory Actions
				<input type="checkbox"/> 891 Agricultural Acts
				<input type="checkbox"/> 893 Environmental Matters
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 896 Arbitration
				<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
				<input type="checkbox"/> 950 Constitutionality of State Statutes

REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	IMMIGRATION
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 462 Naturalization Application
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 465 Other Immigration Actions
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 751 Family and Medical Leave Act	
<input type="checkbox"/> 245 Tort Product Liability	<input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 790 Other Labor Litigation	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Employee Retirement Income Security Act	
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

PROPERTY RIGHTS	SOCIAL SECURITY	FEDERAL TAX SUITS
<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	
<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 864 SSID Title XVI	
<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 865 RSI (405(g))	

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC 1201, et seq.

Brief description of cause:
Violation of ADA & ADAAG

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
In excess of \$75,000

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

01/26/2021

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____